



Town of Westport
Planning and Zoning Commission
Town Hall, 110 Myrtle Avenue
Westport, CT 06880
Tel: 203-341-1030 Fax: 203-454-6145
www.westportct.gov

April 7, 2021

SPECIAL NOTICE ABOUT PROCEDURES FOR THIS ELECTRONIC MEETING:

Pursuant to the Governor's Executive Order No. 7B, there will be no physical location for this meeting. This meeting will be held electronically and live streamed on www.westportct.gov. This meeting will also be shown on Optimum Government Access Channel 79 and Frontier Channel 6020 until 7:30pm, when the hearing will only be available to view via live stream. Public comments may be received PRIOR to the Public Hearing and should be sent to PandZ@westportct.gov by 12:00pm the day of the hearing. Public comments may also be received DURING the meeting if they: (i) are sent to PandZComments@westportct.gov (ii) state your full name and address, (iii) identify the Public Hearing agenda item to which your comment relates, and (iv) are received before the public comment session on that agenda item ends. Comments on Public Hearing items that do not meet these requirements will be placed in the public file but will not be read aloud during the meeting. Comments not pertaining to Public Hearing items will not be read aloud during the meeting. If you would like to give your Public Hearing comments by participating in real time in the meeting, please send an email by noon on April 8, 2021, to maryyoung@westportct.gov stating your name and address and the Public Hearing agenda item to which your comments will relate, and meeting participation details will be emailed to you to enable you to participate in real time in the Public Hearing. Meeting materials are available at www.westportct.gov, on the Planning and Zoning Department web page under "P&Z Pending Applications & Recent Approvals".

AGENDA REVISION #4

**PLANNING & ZONING COMMISSION MEETING
THURSDAY, APRIL 8, 2021
START TIME: 6:00 PM**

I WORK SESSION

- Approval of Minutes- 3/11/21, 3/11/21 (Executive Session), 3/23/21, 3/25/21.

II PUBLIC HEARING

1. **Text Amendment #791: Appl. #PZ-21-00211** submitted by the Planning and Zoning Commission to modify Section 11-2.4, Permitted Accessory Building, Structures and Uses, to allow Accessory Dwelling Units in detached structures with associated zoning standards, Section 11-2.4.12A, Accessory Apartment, to increase allowable floor area and to remove requirement for Annual Certification. Language is proposed to be removed limiting any accessory building or structure to 300 SF in size, one-story in height, or limited to two water use fixtures. A copy of the text amendment is available on-line at www.westportct.gov, is on file in the Town Clerk's Office, is on file in the Planning and Zoning Office, and is attached to this notice (*no deadlines for action for Commission-authored amendment*).

Applicant's presentation time: 10 minutes.

2. **1076 Post Road East:** *(This item was opened on 2/11/21 hearing and continued with testimony to 3/11/21 hearing, it was continued with no testimony to 3/25/21 hearing, it was further continued to 4/8/21 with no testimony received and will be further continued to 4/22/21 no testimony will be received on 4/8/21)* Special Permit/ Site Plan Appl.#PZ-20-00886 submitted by Frederick W. Hoag of FWH Architects for property owned by Post Plaza LLC for façade renovations, parking lot reconfiguration, site work including grading, drainage, landscaping and lighting, and parking relief in the form of applying an “Other” or lower than the retail parking standard, to a portion of the tenant space, and Joint Parking relief to share parking with an on-site restaurant, to accommodate a new retail grocery store tenant in the former Barnes and Noble tenant space, for property located in the Highway Service District, PID#F09050000. *(Must close by 5/10/21 w/ 65-day extension granted + 90-day extension if needed).*

3. **14 Greenwood Lane:** Special Permit/ Site Plan Appl.#PZ-21-00065 submitted by Land Surveying Services, LLC for property owned by Arline and Edward Cruz for after-the fact approval for excavation and fill activities for property located in AA zone, PID#H12018000 *(Must open by 4/8/21 w/ 5 day extension granted + 90 day extension if needed).*

Applicant’s presentation time: 15 minutes

4. **319 & 321 Bayberry Lane:** Special Permit/Site Plan Appl. #PZ-21-00105 submitted by Paul Gudas for property owned by Pawel and Kristyna Gudas/ Michael J & Olga A Anderson for after-the-fact excavation and fill activities for work in the side yard for property located in the AAA zone, PID#E18005000/E18006000 *(Must open by 5/15/21 + 90-day extension if needed).*

Applicant’s presentation time: 15 minutes

III WORK SESSION

(The following items will be discussed and voted on as time permits. The public may observe the work session, but not participate.)

New Business:

- Request for Extension of time for Resolutions #16-037 and #16-043, 8 & 10 Punch Bowl Drive.

IV EXECUTIVE SESSION

- Discuss pending litigation: Cross Street LLC v. Westport Planning and Zoning Commission.

A copy of the Legal Notice/ Agenda for the Planning & Zoning Commission hearing on April 8, 2021 is available on-line at www.westportct.gov, on the Planning and Zoning Department web page under “Planning & Zoning Department”. Due to the closing of Town Hall to the public during the COVID-19 emergency, and pursuant to the Governor’s Executive Order #71, the Legal Notice/ Agenda for the Planning & Zoning Commission hearing on April 8, 2021 cannot be viewed at the Westport Town Clerk’s Office or the Westport Planning and Zoning Office at this time.

It is the policy of the Town of Westport that all Town-sponsored public meetings and events are accessible to people with disabilities. If you need assistance in participating in a meeting or event due to a disability as defined under the Americans with Disabilities Act, please contact Westport’s ADA Coordinator at 203-341-1043 or eflug@westportct.gov at least three (3) business days prior to the scheduled meeting or event to request an accommodation.

Dated at Westport, Connecticut on this 7th day of April 2021, Danielle Dobin, Chairman, Planning and Zoning Commission.

Text Amendment #791Submitted: 3/26/21Received: 4/8/21Public Hearing (*scheduled for*): _____

Adopted: _____

Effective date: _____

Deleted language is [~~struck out and in brackets~~]; New language is underlined.

§11 RESIDENCE AAA DISTRICT

11-2 Permitted Uses

11-2.4 Permitted Accessory Buildings, Structures & Uses

The following buildings, structures and uses are permitted:

11-2.4.1

Docks, landings and boathouses. Such structures shall not accommodate more than two wet slips or moorings and shall be exempt from rear yard setback requirements. No boat shall be occupied or used as a dwelling or dwelling unit.

11-2.4.2

Swimming pools. The setbacks for swimming pools shall be measured from the edge of any deck, pool apron or platform structure adjacent to the pool or otherwise from the exterior lip of the pool to the nearest property lines. The surface area of a swimming pool as measured from the inside face of the exterior walls shall be used in computing Total Coverage.

11-2.4.3

Outdoor recreational uses, paddle tennis courts and tennis courts except that only 50% of the surface area of the tennis court shall be used in computing total lot coverage. Tennis courts and paddle tennis courts accessory to a dwelling shall not be lighted. Any tennis court or paddle tennis court located closer than 50 feet from a side or rear property line shall be screened along said property line in accordance with §35-2.4 (Buffer Strip), herein.

11-2.4.4

Detached private garages shall not exceed one story and a height of 16 feet unless they also contain an accessory unit that meets the requirements of Section 11-2.4.8 below, in which case, the garage shall be subject to the height limitations set forth in Section 11-2.4.8c below.

11-2.4.5

The leasing of rooms by the principal owner (owner occupant) to not more than four (4) persons or the taking in of not more than four (4) boarders in a principal building in which the principal owner is a domiciliary subject to the approval of a Zoning Permit. This provision shall not permit the operation of a guest house or tourist home for transient use.

11-2.4.6

Home Office, as defined in 5-2, Home Based Business. A Principal Building, Accessory Building, Two-Family Dwelling Unit or Multi-Family Dwelling Unit may be permitted a Home Office. Pursuant to §33-6 one free standing sign or wall sign not to exceed two (2) square feet in area nor six (6) feet in height, identifying the name and address of the occupant of a Dwelling and/or Home Office. A Zoning Permit is not required for this use. Such occupation shall be incidental and clearly a secondary use of the principal residence.

11-2.4.6A

Home Occupation, Level 1, as defined in §5-2, Home Based Business, subject to a Zoning Permit, and the following conditions:

- a. Resident Occupant - Only one Home Occupation, Level 1 shall be conducted on any premises. Such occupation shall be conducted by one or more residents of the premises.
- b. Location - A Home Occupation, Level 1 shall be located within the Principal Building on the lot, unless approved in an Accessory Building pursuant to §32-18, Historic Residential Structures. Such occupation shall be incidental and clearly a secondary use of the principal residence.
- c. Floor Area – The total interior floor area devoted to a Home Occupation, Level 1 shall not exceed 25% of the floor area of the Principal Building, excluding cellars and basements, and including waiting rooms, file rooms and similar spaces devoted to uses which are supplementary to such occupations. In the case of a Two-Family building, the floor area of the Principal Building shall be interpreted as the floor area of the individual dwelling unit.
- d. Visitors – There shall be no more than ten (10) patron, client, or associate visits a day.
- e. Students or Pupils - No more than four (4) students or pupils at any one time shall be permitted.
- f. Employees – There shall be no more than one (1) non-resident on-site employee or contractor.
- g. Display - No display shall be visible from the outside.
- h. Signs - Pursuant to §33-6 one free standing sign or wall sign not to exceed two (2) square feet in area nor six (6) feet in height, identifying the name and address of the occupant of a Dwelling and/or a Home Occupation, Level 1 is permitted.
- i. Parking - 2 off-street parking spaces are required in addition to the 2 parking spaces required for a single family residence. No parking spaces shall be located within the minimum required front setback.

- j. Prohibition - The use of any Multiple Family Dwelling Unit for any Home Occupation, Level 1, shall be prohibited.
- k. Limitation - Either one (1) Home Occupation Level 1 or Level 2 is permitted per lot.

11-2.4.7

Barns that are designed, arranged and intended to be occupied and used solely for the storage of farm products and equipment, for feed, and/or for the housing of farm animals, or horses. Such barns shall not exceed 1,200 square feet of gross floor area; shall not exceed two stories and a height of twenty-four (24) feet and shall not include any bathroom facilities (toilet, tub or shower), kitchen facilities and/or central heating systems including electric baseboard.

11-2.4.8

Other buildings, structures and uses not listed above, accessory to a permitted principal use, provided that:

- a. ~~The accessory building or structure shall not exceed 300 square feet of gross floor area.~~ The Building Area Coverage of the accessory building or structure shall not exceed the following:

<u>Lot Size</u>	<u>Maximum Building Area Coverage of Accessory Building or Structure</u>
<u>Lots up to and including 65,340 sq. ft.</u>	<u>650 sq. ft., provided, however, that for the purposes of calculating Building and Total Coverage:- the first 350 sq. ft. of any such accessory building or structure shall not be counted.</u>
<u>Lots over 65,340 sq. ft.</u>	<u>1,000 sq. ft.</u>

- b. ~~The accessory building or structure shall not exceed one (1) story and a height of sixteen (16) feet; except for barns identified in §11-2.4.7 above.~~ The accessory building or structure may only have a single interior kitchen.
- c. The accessory building or structure shall not exceed the following height limitations:

<u>Roof Type</u>	<u>Maximum Height (measured to the highest point of the roof, excluding a cupola as permitted below)</u>
<u>Any Roof with a slope [of at least 6:12]</u>	<u>Twenty-six (26) feet</u>
<u>Any Roof with a slope [of less than 6:12]</u>	<u>Sixteen (16) feet</u>

Existing non-conforming accessory structures are permitted to be converted into an accessory dwelling unit with Special Permit approval.

- d. Subject to Section 11-2.4.8.(a) and (b) above, the accessory building or structure shall meet all setback, coverage, grading, drainage, and other requirements applicable to the property.

- e. If the property is not on Town sewers, the property owner or their designee must obtain the Westport-Westin Health District approval for the septic system. State approval of the proposed septic systems may also be required pursuant to state statute.
- f. If the property is on Town sewers, proof of the sewer hookup must be submitted to the P&Z Office by the property owner or their designee.
- g. There are at least three (3) off-street parking spaces on the lot and proof of adequate parking must be submitted to the Planning and Zoning Office by the property owner or his designee.
- h. Ground mounted solar panels shall not exceed 16 feet in height and shall be fully screened from any adjacent property line and street line at all times.
- i. Ground mounted satellite dishes or disc type antenna shall not exceed 16 feet in height and shall be fully screened from any adjacent property line and street line at all times. Roof top satellite dishes and roof top disc type antenna are prohibited except for disc type antennas less than two feet in diameter.
- j. Cupolas shall be permitted on accessory buildings provided that: (i) the cupola shall not be higher than 5 feet above the ridge line or highest point of the roof; and (ii) the cupola shall not exceed 5% of the footprint of the roof area of the building on which it is located, or 25 square feet, whichever is less. The cupola cannot be used for human habitation. ~~No accessory building or structure shall be occupied or used as a rooming unit or a dwelling unit.~~
- k. Cellars, basements and crawl spaces shall be permitted in accessory buildings but must be unfinished and may not be used as living space. Stairs which access a cellar or basement from outside the building do not count in building coverage. ~~No accessory building shall contain a kitchen.~~
~~No accessory building shall contain more than two (2) water use fixtures (sink, toilet, and tub/shower).~~
- l. The provisions listed above may be modified for applications approved pursuant to §32-18. (Historic Residential Structures).
- m. Permanent and temporary light poles for lighted athletic fields on town owned public school property shall be permitted up to a height of 80 feet for permanent and 50 feet for temporary lights provided that all requirements of §32-19 or §32-19A are in compliance.
- n. Only one accessory dwelling unit shall be permitted per lot.
- o. Any accessory dwelling unit located in the Special Flood Hazard Area must be compliant with the floodplain regulations in §31-11. No additional building height is permitted for an existing or new structure located within the [Special Flood Hazard Area](#) when proposed to be floodplain compliant.

11-2.4.9

No accessory building, structure or lot shall include any use or activity conducted for gain or profit, ~~except as otherwise expressly permitted herein.~~ (i) for residential occupancy, including rentals (so long as the term of lease is at least (6) months and so long as the owner resides on the property, and (ii) as otherwise expressly permitted herein.

11-2.4.10

~~The use of any accessory structure for human habitation shall be prohibited except as modified by §32-18. (Historic Residential Structures). Reserved~~

11-2.4.11

Storage of commercial vehicles in accordance with the provisions of §32, herein.

11-2.4.12

A single-family dwelling may be converted to allow the incorporation of one (1) additional dwelling unit as an accessory apartment ~~or affordable accessory apartment~~ subject to approval of a Zoning Permit and the following conditions:

11-2.4.12A Accessory Apartments.

- ~~a. An accessory apartment must be located within the principal building on the lot. Occupancy – At least one of the dwelling units shall be occupied by the principal owner.~~
- ~~b. Eligibility – At least one of the dwelling units shall be occupied by a person 62 years of age or older or a person of any age with disabilities who is receiving Social Security disability payments. Reserved~~
- c. Signatures – All requests shall contain the signature(s) of the owner(s), or a letter of authorization by the property owner.
- d. Floor Area - The additional dwelling unit shall not exceed ~~800~~ 1,500 square feet of floor area or 25% of the total floor area in the dwelling, whichever is smaller. See §5 for definition of Floor Area.
- e. If the property is not on Town sewers, the property owner or his designee must obtain the Health Department approval of the septic system.
- f. If the property is on Town sewers, proof of the sewer hookup must be submitted to the P&Z Office by the property owner or his designee.
- ~~g. Proof of adequate parking must be submitted to the Planning and Zoning Office by the property owner or his designee. One parking space for the converted unit is required. There are at least three (3) off-street parking spaces on the lot and proof of adequate parking must be submitted to the Planning and Zoning Office by the property owner or his designee.~~
- ~~h. Annual Certification – Prior to the issuance of a Zoning Permit, a certificate in the form of an affidavit to verify that the principal owner is in residence and that one of the occupants of a particular dwelling unit is 62 years of age or older or receiving Social Security Disability payments shall be presented to the P&Z Office. Thereafter, the principal owner shall submit such notarized affidavit to the Zoning Enforcement Office by January 31st of each year as a requirement for the continuance of the Zoning Permit. If the accessory apartment is not being used as a separate dwelling unit, the property owner submits a notarized affidavit stating that the apartment is not in use.~~